

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, OCTOBER 16, 2007

The meeting of the State Properties Committee was called to order at 10:00 a.m. by Chairman Kevin M. Flynn. Other members present were Robert Griffith representing the Rhode Island Department of Administration; Richard Woolley representing the Rhode Island Department of Attorney General; Robert W. Kay and John A. Pagliarini, Jr., Public Members and Xaykham Khamsyvoravong representing the Rhode Island Office of the General Treasurer, Ex-officio Member. Others in attendance were Anthony Paolantonio from the Rhode Island House of Representatives; Robert C. Bromley from the Rhode Island Senate Fiscal Office; Marco Schiappa, Michael D. Mitchell and John Ryan from the Rhode Island Department of Administration; Robert B. Jackson, David Coppotelli, Maureen McMahon and William McCarthy from the Rhode Island Department of Transportation; Lisa Primiano from the Rhode Island Department of Environmental Management; Gail A. Theriault from the Rhode Island Department of Labor and Training; Nathan Myers from the Rhode Island Office of the General Treasurer; Nancy Striuli from the Rhode Island Trial Lawyers Association; Kevin McPeak from the Rotary Club of Woonsocket.

A motion was made to approve the regular minutes of the State Properties

Committee meeting held on Tuesday, October 2, 2007, by Mr. Pagliarini and

seconded by Mr. Kay. Motion passed four (4) votes “Aye; one abstention.

Four (4) Votes Aye

Mr. Pagliarini

Mr. Griffith

Mr. Kay

Chairman Flynn

One (1) Abstention

Mr. Woolley

Chairman Flynn noted for the record that the State Properties Committee did have a quorum present.

The next scheduled meeting of the State Properties Committee will be held on

Tuesday, October 30, 2007, at 10:00 a.m.

OLD BUSINESS – A request was made for the execution of the Lease Agreement and Amendment One to Ground Lease Agreement between Independence Square Foundation and the University of

Rhode Island/Board of Governors for property located at 25 West Independence Way in the Town of Kingstown, which were previously approved by the State Properties Committee on May 29, 2007. Mr. Woolley explained that at the time the Agreements were approved, he indicated that he wished to consult with Louis Saccoccio to refine some of the language contained in the Agreements. Therefore, Mr. Woolley suggested that this item be deferred to the next meeting. Mr. Woolley also suggested that a representative of the University of Rhode Island appear before the State Properties Committee to present the item at the next meeting to address certain issues inclusive of the Joint Resolution approved by the General Assembly.

ITEM A – Department of Labor and Training – A request was made for approval of and signatures on the License Agreement by and between the State of Rhode Island acting through the Department of Labor and Training and the Rotary Club of Woonsocket for use of a parking lot located at 219 Pond Street in the City of Woonsocket. Ms. Theriault explained that the Department of Labor and Training is seeking retroactive approval of a License Agreement for use of a parking lot in support of the Autumnfest celebration. Ms. Theriault indicated that the Rotary Club of Woonsocket has utilized the parking lot for several years to provide parking volunteers and vendors who participate in the Autumnfest celebration. Ms. Theriault indicated that unfortunately, the Department of Labor and Training did not receive the appropriate paperwork from the Rotary Club of Woonsocket in time to obtain the proper approval of the State Properties Committee.

Ms. Theriault thanked Chairman Flynn and others at the Department of Administration for their assistance and guidance regarding this matter. Ms. Theriault explained that the Department of Labor and Training prepared the requisite License Agreement, using the exact form which was previously approved by the State Properties Committee. Ms. Theriault stated that Kevin Carvalho reviewed the insurance binder and indicated that the same was appropriate. Mr. Woolley also reviewed the documents in order to ensure that they were appropriate. Ms. Theriault also thanked the members of the Department of Administration for their cooperation on behalf of the Director of the Department of Labor and Training and apologized for the untimely request. Ms. Theriault indicated that assuming the Rotary Club of Woonsocket intends to request permission to utilize the parking lot next year, the Department of Labor and Training will see to it that the request is presented in a timely matter next year. Mr. Woolley indicated that Deputy Attorney General Gerald Coyne expressed concern relative to the retroactive approval of said License Agreement setting an inappropriate precedent. Mr. Pagliarini agreed with Deputy Attorney General Coyne's concerns regarding the retroactive approval of the License Agreement. Mr. Pagliarini indicated that by doing so, the State Properties Committee would be setting a dangerous precedent. Although Mr. Kay agreed with the statements of his colleagues, he indicated that in his dealings with the Rotary Club, he has always found it to be a professional and very reputable organization. Mr. Pagliarini clarified that his comments and concerns are in no way specific to the Rotary Club, but believes the

retroactive approval of the License Agreement will set an inappropriate and dangerous precedent nonetheless. Chairman Flynn explained that he received a telephone call from the Department of Labor and Training regarding this request on Thursday, October 4, 2007. Chairman Flynn explained that as the State Properties Committee is subject to the Open Meetings Law, which requires the forty-eight (48) hour advance posting of an agenda prior to a scheduled meeting, the State Properties Committee would be unable to accommodate the Department of Labor and Training's request. Chairman Flynn explained that he suggested that the Department of Labor and Training confer with Louis DeQuattro, Chief Legal Counsel for the Department of Administration. Chairman Flynn read aloud the e-mail transmission from Mr. DeQuattro to the Department of Labor wherein Mr. DeQuattro stated:

"I looked at the agreement quickly and believe it works for its intended purposes. I also trust that you are correct that the exact agreement was approved by SPC last year as I can not verify that fact at this time. I have copied Richard Woolley at the AG's office who sits on the SPC who I trust will either agree with me or appropriately disagree if I have missed something material (assuming Richard's around this afternoon or tomorrow).

The Rotary and your Director should sign this license immediately and you should obtain all the insurance information certificates required prior to allowing use of the parking lot and forward the documents to Holly Rhodes secretary for the SPC. The SPC can

subsequently ratify the license at its next meeting. This has been done in the past in very limited circumstances.”

Chairman Flynn explained that unfortunate circumstance had the potential to seriously affect a very large popular community event in Woonsocket. Chairman Flynn indicated that the celebration went forward and the Rotary Club of Woonsocket did utilize the subject property. Chairman Flynn indicated that to his knowledge there were no problems associated with the use of said parking lot. Mr. Pagliarini stated that whether or not the State Properties Committee retroactively approves and executes the License Agreement will have no bearing on the event or the use of the parking lot whatsoever, as the event is over. Mr. Pagliarini indicated that the Department of Administration together with the Department of Labor and Training attempted to make the best of an unfortunate situation; however, he will not support the setting of a dangerous precedent by retroactively approving the License Agreement. Mr. Pagliarini reiterated that his denial of this request is not reflective of the Rotary Club or the State of Rhode Island; he is simply not comfortable voting in favor of said request. A motion to deny retroactive approval of the License Agreement by and between the Department of Labor and Training and the Rotary Club of Woonsocket was made by Mr. Pagliarini and seconded by Mr. Woolley.

Passed Unanimously

ITEM B – Department of Administration – A request was made for final approval of the Purchase and Sale Agreement to convey

state-owned property located at 1615 Pontiac Avenue in the City of Cranston to 1516 Pontiac Avenue Condominium Association. Chairman Flynn explained that this matter previously came before the State Properties Committee in February 2007. Chairman Flynn indicated that the subject property is a parking lot located adjacent to an office building located on Pontiac Avenue. Chairman Flynn explained that in February 2007, the State Properties Committee was provided with an appraisal of the parking lot; however, the Committee recommended that the Department of Administration obtain a calculation of the amount of back rent for the use of said parking lot for the past ten (10) years. Mr. Schiappa indicated that an appraisal was conducted by Andolfo Appraisal Associates, Inc., which valued the back rent for the historical use of the state-owned subject property at \$30,000. Mr. Schiappa stated that 1516 Pontiac Avenue Condominium Association has agreed to pay the amount of \$30,000 for its use of state-owned property for the previous ten (10) year period. Mr. Schiappa indicated that 1516 Pontiac Avenue Condominium Association has also agreed to pay the purchase price of \$85,000 for the property together with all appraisal costs for the total amount of \$119,125. The State Properties Committee indicated that it was not provided with an updated Action Request Form which included a reference to the \$30,000 fair rental value. Mr. Woolley asked what period of time the appraised fair rental value in the amount of \$30,000 encompassed. Mr. Mitchell indicated that said appraisal involve the time period from May 1, 1997 through May 1, 2007. Mr. Woolley suggested that there is an additional five (5)

months of rental payments due and owing to the State of Rhode Island. Mr. Mitchell indicated that the Department of Administration had intended to bring this item to the State Properties Committee earlier; however, after speaking with the attorney for 1516 Pontiac Avenue Condominium Association, it was agreed that with the permission of the State Properties Committee the closing date would be extended to December 2007, to ensure that there is plenty of time to schedule a closing and for 1516 Pontiac Avenue Condominium Association to obtain the zoning permit, which is currently pending before the City of Cranston Zoning Board. Mr. Griffith indicated that the Purchase and Sale Contract provided to the State Properties Committee does not reference the \$30,000 fair rental value. Mr. Woolley indicated that Deputy Attorney General Gerald Coyne has expressed concern regarding what, if any, affect the sale of the subject property will have on the remaining adjacent state-owned property. Mr. Woolley asked if this sale will have any impact on access to the adjacent state-owned property or if it will diminish the value of the remaining state-owned property. It is Mr. Mitchell's understanding that the sale of the subject property will have no impact on the remaining state-owned property. Mr. Pagliarini suggested that this request be tabled until such time as the State Properties Committee is provided with the proper documents.

Under discussion, Chairman Flynn explained that the proper documents were submitted to Ms. Rhodes this morning; however, the documents provided to the members of the State Properties Committee were submitted to hold a place on the agenda for this

request.

Mr. Ryan indicated that the Purchase and Sale Contracts, which have been submitted for the Committee's execution are the appropriate documents. Chairman Flynn clarified that the Committee seems to be expressing frustration that it receives documents, which are not accurate. Mr. Pagliarini indicated that he has previously requested copies of appraisals and would like to review the appraisals relative to the subject property. Mr. Woolley indicated that although the parties anticipated that the closing of the property would take place on or about May 1, 2007, if the property is going to be utilized for an additional six to eight months, the State of Rhode Island should be compensated for that additional period of time. Mr. Woolley indicated that the issue of additional rental payments should be addressed in the Purchase & Sale Contract. Mr. Woolley suggested the issue could be addressed via 1516 Pontiac Avenue Condominium Association's payment of the appraisal costs. Chairman Flynn indicated that the Department of Administration should address this issue in some way prior to returning to the Committee for final approval and execution of the Purchase and Sale Contract. A motion to table this item was made by Mr. Pagliarini and seconded by Mr. Kay.

Passed Unanimously

Mr. Mitchell asked whether Mr. Pagliarini would like copies of both appraisals concerning the subject property. Mr. Pagliarini indicated that is correct. Chairman Flynn indicated that the Committee is also requesting an update fair rental value, which encompasses the period of time until the anticipated closing of the property. Mr. Pagliarini

reiterated that the Committee is also requesting copies of the corrected Action Request Form and Purchase and Sale Contract.

ITEM C – Department of Administration – A request was made for approval of and signatures on a License Agreement by and between the State of Rhode Island acting through the Department Administration and the Rhode Island Association for Justice for use of the State House Rotunda for a two (2) hour reception on Tuesday, November 13, 2007, from 5:00 p.m. to 7:00 p.m. Ms. Stiuli introduced herself as the Executive Director of the Rhode Island Association of Justice, formerly the Rhode Island Trial Lawyers Association. Ms. Stiuli explained that the Rhode Island Association of Justice holds an annual conference during the month of November. This year the conference will be held at the Biltmore Hotel in the City of Providence from November 11, 2007, through November 13, 2007. Ms. Stiuli indicated that the Rhode Island Association of Justice is seeking permission to utilize the Rotunda of the State House for a two (2) hour social reception. Ms. Stiuli indicated that approximately two hundred lawyers and lobbyist attend the conference and one hundred individuals are expected to attend the reception. Chairman Flynn asked if the Rhode Island Association for Justice will pay a usage fee for use of the Rotunda. Mr. Schiappa indicated that the Rhode Island Association for Justice has paid a usage fee as well as a damage deposit. Mr. Pagliarini asked if alcoholic beverages will be served. Ms. Stiuli indicated that beer and wine will be served. Mr. Woolley stated that he had expressed concern that the Certificate of Insurance did not address host liquor liability insurance coverage. Ms. Stiuli

stated that she has furnished the executive secretary of the State Properties Committee with a copy of the appropriate Certificate of Insurance, which addresses the issue of host liquor liability insurance coverage. A motion was made to approve by Mr. Pagliarini and second by Mr. Griffith.

Passed Unanimously

ITEM D – Department of Transportation – A request was made for conceptual approval to convey 6,640 square feet of State-owned property located on Old Bald Hill Road in the City of Cranston to Miller’s Crossing. Mr. Jackson explained that the Department of Transportation received a request from the applicant to purchase 6,640 square feet of State-owned property located adjacent to his business; known as Miller’s Crossing. The request comprises two (2) separate parcels of land. The first consisting of 1,600± square feet of property located between the applicant’s property and New London Avenue to the northwest, and the second consisting of 5,040± square feet of land, a portion of the right-of-way of Old Bald Hill Road to the east, for a total of 6,640± square feet of property. Mr. Jackson presented a photograph and map illustrating the exact locations of the parcels of land. Mr. Jackson indicated that he was in receipt of the Advisory Report of Kevin Nelson of the Statewide Planning Program, wherein Mr. Nelson reminded the Department of Transportation “that an administrative subdivision should be undertaken simultaneously with the transaction if the subject property does not have an assigned plat and lot number.” A motion was made to grant conceptual approval to convey the property to

Miller's Crossing by Mr. Pagliarini and seconded by Mr. Woolley.

Passed Unanimously

ITEM E – Department of Transportation – A request was made for approval of and signatures on a Permanent Loop Detector Easement Agreement between Bellecastle Realty, LLC/Warwick Hotel Associates II, LP and the Department of Transportation.

Ms. McMahon explained that approval for a physical alteration permit has been granted to the applicant. The Department of Transportation is now seeking approval of a Loop Detector Easement Agreement for the Crown Plaza access on Route 5 (Greenwich Avenue) in the City of Warwick. Ms. McMahon stated that this conveyance is such that no monetary compensation is required. A motion to approve was made by Mr. Griffith and seconded by Mr. Kay.

Passed Unanimously

ITEM F – Department of Environmental Management – This item was deferred to a future meeting of the State Properties Committee at the request of the Department of Environmental Management.

ITEM G – Department of Transportation – A request for approval of and signatures on a License Agreement by and between the State of Rhode Island acting through the Department of Transportation and Baskets & Bouquets, LLC for the use of state-owned property located on Park Avenue in the City of Cranston for vehicle parking.

Mr. Coppotelli explained that the Department of Transportation is seeking approval of a five year License Agreement with Baskets & Bouquets, LLC, located at 1424 Park Avenue in the City of Cranston.

Mr. Coppoteli presented a map of the subject property for review by

the Committee. Mr. Griffith asked why the subject property is not being sold. It is Mr. Coppotelli's understanding that the subject property has to be maintained by the Department of Transportation because it is located adjacent to the Washington Secondary Bike Path. Mr. Griffith asked if the subject property encroaches on the Washing Secondary Bike Path. Mr. Coppotelli explained that the parking for the building is very limited so that when the Washington Secondary Bike Path was refurbished the subject parcel of land was left over and was utilized for additional vehicle parking. Mr. Pagliarini asked how the rental value was determined. Mr. Coppotelli stated that the rental value was determined via an internal appraisal. Mr. Coppotelli stated that the rental fee will be re-evaluated after three (3) years. Mr. Coppotelli explained that the subject property accommodates parking for perhaps three (3) vehicles at the most. A motion was made to approve by Mr. Kay and seconded by Mr. Griffith.

Passed Unanimously

There being no further business to come before the State Properties Committee, the meeting was adjourned at 10:38 a.m. A motion was made to adjourn by Mr. Griffith and seconded by Mr. Kay.

Passed Unanimously

Holly H. Rhodes, Executive Secretary